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Paper 8

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ON PETITION

In re Patent No. 6,077,007
Issue Date: June 20, 2000
Application No. 09/128,504
Filed: August 3, 1998
Title of Invention: **PICK-UP TRUCK BED
ORGANIZER AND METHOD**

This is a decision on the petition filed under 37 CFR 1.378(b), August 24, 2008, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued on June 20, 2000. The second maintenance fee due could have been paid during the period from June 20, 2007 to December 20, 2007 or, with a surcharge during the period from December 21, 2007 to June 20, 2008. Accordingly, this patent expired on June 20, 2008 for failure to timely remit the maintenance fee.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(l)(1).

This petition lacks items (1) and (3) above.

Any petition under 37 CFR 1.378 must be signed by an attorney or agent registered to practice before the U.S. Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. A person or organization whose only responsibility insofar as the patent is concerned is the payment of a maintenance fee is not a party in interest for the purposes of 37 CFR 1.378. If the petition is signed by a person not registered to practice before the Office, the petition must indicate that the person signing the petition is the patentee, assignee, or other party in interest. An assignee must comply with the requirements of 37 CFR 3.73(b) which is discussed in MPEP § 324 and MPEP § 2590.

The instant petition is filed solely by Eloise A. Gonzales. While a review of the record reveals that Eloise A. Porter is an original inventor, and it is assumed that Eloise A. Gonzales and Eloise A. Porter are the same person, the review of the record also reveals that an assignment of the entire right was signed by Ms. Porter on July 28, 1998 and recorded with the USPTO on August 3, 1998. Thus it does not appear that Ms. Gonzales or Ms. Porter has standing to file the instant petition.

Furthermore, if the petition is filed by the inventors, all inventors must sign the petition not just one of the inventors on behalf of all of the inventors.

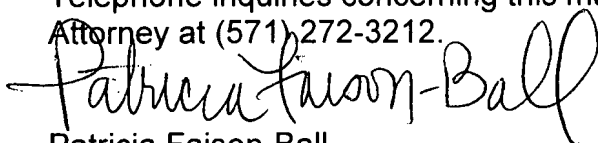
Regarding the fees paid, the finance records show that \$1510 was received on June 19, 2009. At the time the fee was submitted, the maintenance fee for a small entity was set at \$1240. The fee for a petition to accept unavoidably delayed payment of maintenance fee in an expired patent under 37 CFR 1.378(b), is \$700, not \$270. Thus the fees submitted are deficient. Therefore, petitioner has failed to submit the petition fee for the instant petition—the petition fee is jurisdictional—and, thus, the Office cannot consider the substantive aspect of the petition in the absence of the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions